

STATE OF TENNESSEE

Office of the Attorney General



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Reply to:  
Consumer Advocate and Protection Division  
Post Office Box 20207  
Nashville, TN 37202

June 10, 2003

Honorable Sara Kyle  
Chairman  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37243

**RE: In Re: Petition of Tennessee American Water Company to Change and Increase Certain Rates and Charges So As to Permit it to Earn a Fair and Adequate Rate of Return on Its Property Used and Useful in Furnishing Water Service to Its Customers**  
**Docket No. 03-00118**

Dear Chairman Kyle:

Enclosed is an original and thirteen copies of a Response and Objections of the Consumer Advocate and Protection Division of the Office of the Attorney General to Tennessee American Water Company's Motion to Propound Additional Interrogatories. Kindly file same in this docket. We are forwarding copies of same to all parties of record. If you have any questions, please feel free to contact me at (615) 532-3382. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Shilina B. Chatterjee".

Shilina B. Chatterjee  
Assistant Attorney General

Enclosures

cc: All Parties of Record

65727

**IN THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

<b>IN RE:</b>	)
	)
<b>PETITION OF TENNESSEE</b>	) <b>DOCKET NO. 03-00118</b>
<b>AMERICAN WATER COMPANY TO</b>	)
<b>CHANGE AND INCREASE CERTAIN</b>	)
<b>RATES AND CHARGES SO AS TO</b>	)
<b>PERMIT IT TO EARN A FAIR AND</b>	)
<b>ADEQUATE RATE OF RETURN ON</b>	)
<b>ITS PROPERTY USED AND USEFUL IN</b>	)
<b>FURNISHING WATER SERVICE TO</b>	)
<b>ITS CUSTOMERS</b>	)

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**RESPONSE AND OBJECTIONS OF THE CONSUMER ADVOCATE AND  
PROTECTION DIVISION OF THE OFFICE OF THE ATTORNEY GENERAL  
TO TENNESSEE AMERICAN WATER COMPANY'S MOTION FOR LEAVE  
TO PROPOUND ADDITIONAL INTERROGATORIES**

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Comes Paul G. Summers, the Attorney General & Reporter, through the Consumer Advocate and Protection Division of the Office of Attorney General (hereinafter "CAPD") and hereby responds to Tennessee American Water Company's (hereinafter "TAWC") Motion for Leave to Propound Additional Interrogatories (hereinafter "Motion for Leave") dated June 6, 2003. The CAPD respectfully urges the Hearing Officer to deny TAWC Motion for Leave to Propound Additional Interrogatories.

The CAPD states that it has responded to all discovery requests propounded by TAWC and has fully complied with the procedural schedule set forth by the Hearing Officer in the Order on March 12, 2003 Status Conference issued on March 17, 2003. The CAPD states that they have consistently cooperated and addressed TAWC's prior discovery requests. The CAPD has systematically adhered to the procedural schedule. The request by TAWC to require the CAPD

to answer additional discovery at this time is outside the bounds of the procedural schedule and is unusual in the normal course of a rate case proceeding before the Tennessee Regulatory Authority ("TRA"). Therefore, the CAPD files this response and objections to TAWC's Motion for Leave in an expeditious manner because TAWC seeks our responses to interrogatories by Friday, June 13, 2003, merely three days from the date of this filing. Although much of this tardy discovery can be characterized as an effort to "argue with" Dr. Brown's pre-filed testimony, the CAPD will attempt to respond to some of them by June 13, 2003. The following sets forth our response and objections.

It is not feasible to answer interrogatories at this stage of the proceedings since the discovery phase has long been concluded. It is impractical and almost impossible for the CAPD to answer the questions in such a short time frame and the CAPD opposes the attempt by TAWC to propound additional discovery upon the CAPD when discovery has been concluded. Additionally, our hearing date is on June 30, 2003 and is less than 21 days away. Answering the additional interrogatories represents an additional burden upon the CAPD, it is not included in the procedural schedule, is the result of filed testimony by our expert and is highly unusual at this stage of the proceedings.

Nevertheless, in an effort to avoid the inconvenience and distraction of a full-blown discovery dispute, the CAPD will provide answers to the additional discovery requests that are easily done and reasonable. However, many of the additional discovery requests are unduly burdensome and can be obtained by TAWC because much of the information and documentation they are seeking are of public record and are readily available through various sources through the Internet. The CAPD respectfully submits that it would be unfair to shift the burden to the CAPD to gather this information for their rebuttal testimony when TAWC can readily access the

information. In the spirit of efficiency and cooperation, the CAPD will immediately respond to those requests that seek electronic copies of Dr. Brown's testimony and exhibits. Finally, the CAPD must highlight that the proper avenue for TAWC is to address Dr. Brown's Direct Testimony through rebuttal testimony.

Notwithstanding the above stated reasons for our objections, the CAPD has substantial time constraints concerning responding to TAWC's 35 interrogatories. The time constraints are of serious concern. First, Dr. Brown is preparing rebuttal testimony in this matter. These additional interrogatories interfere with the CAPD's preparation and filing of rebuttal testimony. Additionally, requiring the CAPD to respond to additional discovery may upset the entire procedural schedule that was previously agreed to by the parties and set forth by the hearing officer. Moreover, Dr. Brown is reviewing and preparing material in another complex rate case involving Nashville Gas Company (Docket No. 03-00313) and these additional requests may disrupt the orderly progression of the work on that case.

In addition, TAWC has also mischaracterized their additional interrogatories as "narrow and tailored." Additionally, several of the discovery requests are tedious and burdensome. In particular, Interrogatories # 6, #15, #31 are extremely time demanding. Moreover, under the traditional practices and procedures of the TRA, discovery is not granted without a party demonstrating a need for discovery. In this matter, the overall scope of information that TAWC is seeking is unreasonably cumulative, duplicative, obtainable from another source and unduly burdensome. The "narrow and tailored" requests represent a burden for CAPD at this late date. TAWC has access to the information it is seeking and can also refer to earlier responses by the CAPD to TAWC's discovery requests concerning the direct testimony of Dr. Brown.

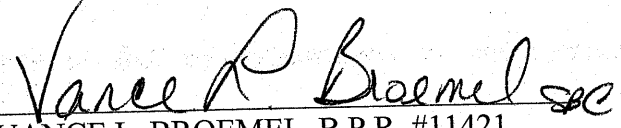
Lastly, in the spirit of cooperation between the parties, the CAPD has willingly provided

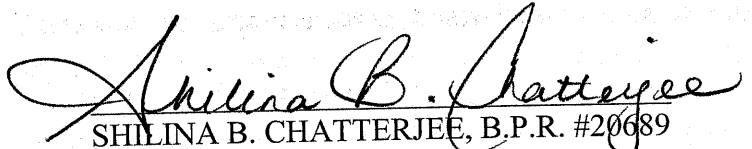
responses to Interrogatory #1 and #2 and the CAPD is willing to engage in discussions in an effort to arrive at an informal compromise to avoid any delay in this proceeding based on the hearing officer's ruling concerning this motion.

**CONCLUSION**

For the reasons provided above, the Attorney General respectfully requests that the TRA deny TAWC's Motion for Leave to Propound Additional Interrogatories on the Consumer Advocate & Protection Division of the Office of the Attorney General.

RESPECTFULLY SUBMITTED,

  
VANCE L. BROEMEL, B.P.R. #11421  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
(615) 741-8733

  
SHILINA B. CHATTERJEE, B.P.R. #20689  
Assistant Attorney General  
Office of the Attorney General  
Consumer Advocate and Protection Division  
P.O. Box 20207  
Nashville, Tennessee 37202  
(615) 532-3382

Dated: June 10, 2003

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and exact copy of the foregoing has been forwarded by facsimile and/or first-class mail, postage prepaid, to T.G. Pappas, George H. Masterson, R. Dales Grimes, Attorneys at Law, Bass, Berry & Sims, PLC, AmSouth Center, 315 Deaderick Street, Suite 2700, Nashville, Tennessee 37238-3001, on this 10th day of June, 2003.

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SHILINA B. CHATTERJEE  
Assistant Attorney General

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